

PATENT
10/713,726

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: : Group Art Unit: 2168
: Examiner: A. J. Sanders
Timothy A. Dietz et al. :
Serial No: 10/713,726 :
Filed: 11/13/2003 :
Title: A WORLD WIDE WEB :
DOCUMENT DISTRIBUTION SYSTEM :
WHEREIN THE HOST CREATING A :
WEB DOCUMENT IS ENABLED TO : Customer No. 25,299
ASSIGN PRIORITY LEVELS TO HY- : Confirmation No. 2698
PERLINKS EMBEDDED IN THE :
CREATED WEB DOCUMENTS :
Date: 11/15/08 :

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REPLY BRIEF ON APPEAL

This is a Reply Brief to the Examiner's Answer mailed September 25, 2008.

In the Answer, the Examiner makes some newer statements with respect to Appellants' Argument in the Brief which Appellant takes issue with.

On page 16 of the Answer with respect to Claims 17-20,
Examiner argues that the HTML tag is non-functional descriptive material since the tag does not produce a tangible "result". Appellants submit that the whole HTML document defined in claims 17-20 is a tangible document

structure within which a markup language tag defining prioritization of the hyperlink is associated with each hyperlink. The HTML document with the prioritizing tags provides the tangible result wherein this prioritization of tags determines the order in which linked documents may be interactively accessed via the World Wide Web by users from a displayed HTML document.

On pages 16-17 of the Answer with respect to claims 21-25, Examiner argues that the term, computer usable medium is broad enough to read on transmission carrier waves which are non-statutory subject matter.

As previously set forth in Appellants Brief on Appeal, in the present Specification at page 6, lines 25-29 with respect to Fig. 1, the Application Programs 40, including the application program of the present invention, are described as stored in the RAM storage medium of the host web site server during operations. The RAM storage medium is a computer usable medium on which the computer program is stored.

Even if as Examiner contends, transmission waves are a computer usable medium, a computer program being transmitted over a network can not be considered as stored on such transmission waves.

Appellants submit that it is clear from the Specification and this cited section that Appellants claim computer usable media with the programs stored thereon and this does not include the program in transmission.

Accordingly, with respect to claims 21-25, it is submitted where, as in the present Application, there is a

reasonable interpretation of terminology based upon what is disclosed in view of what is known in the art which defines statutory subject matter, then a remote interpretation of the terminology which renders the claimed subject matter as non-statutory should not be permitted.

On page 17 of the Answer with respect to the independent claims being anticipated by Progrebisky under 35 USC 102(b), Examiner again cites col 16, line 59 to col 17, line 7 in Progrebisky. In this section, the reference mentions sorting by the number of links to each of a plurality of nodes at the Web site. In other words, there is a sort by the count of the number of links to each node in the Web site. In the Brief on Appeal, Appellants have argued that such sorting is not prioritizing.

However, even if Examiner's Argument is accepted and the sorting does prioritize, there would still not be any teaching of the combination:

"..prioritizing said plurality of embedded hyperlinks in a source Web document at a source site; and

applying said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed."

Any prioritization in Progrebisky applies to nodes at a particular Web site. These nodes are not hyperlinks in a source Web document. The hyperlinks in a Web document may respectively be links to other Web documents at many other Web sites.

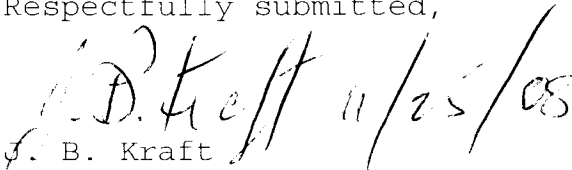
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Also any prioritization in Probrebisky would not be applied in determining the order in which other Web documents would be accessed through the prioritized hyperlinks in the Web document.

In order to reject under 35 USC 102, the reference must expressly or impliedly teach every element of the invention without modification. Progrebisky fails to teach this.

Accordingly, for the reasons set forth above and for the reasons set forth in the Brief on Appeal, the Board of Appeals is respectfully requested to reverse the Final Rejection under 35 USC 101, and 35 USC 102(b), and find claims 1-11, and 17-25 in condition for allowance.

Respectfully submitted,


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